

ORIGINAL

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8 Attorneys for Defendants,
9 CHENEY ADRIENNE SHAPIRO;
10 CHENEY SHAPIRO DESIGNS 401K;
11 CHENEY SHAPIRO DESIGNS;
12 CHENEY ADRIENNE SHAPIRO,
13 TRUSTEE OF DEFENDANT CHENEY
14 SHAPIRO DESIGN 401K;
15 RESOURCEFUL DEVELOPMENTS, INC.;
16 RICHARD JUDSON WILLIAMS

FILED
Superior Court of California
County of Los Angeles

DEC 12 2017

herri K. Carter Executive Officer Clerk
By _____
Glorietta K. Robins, Jr.

BY FAX

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

13 DAVID A. GLAZER, an individual,

14 Plaintiff,

15 vs.

16 CHENEY ADRIENNE SHAPIRO; CHENEY
17 SHAPIRO DESIGNS 401K; CHENEY
18 SHAPIRO DESIGNS; CHENEY ADRIENNE
19 SHAPIRO, TRUSTEE OF DEFENDANT
20 CHENEY SHAPIRO DESIGN 401K;
21 RESOURCEFUL DEVELOPMENTS, INC.;
22 RICHARD JUDSON WILLIAMS;
23 SILVERWOOD PROPERTIES, INC.;
24 KENNETH HOWARD SHAPIRO; PODLEY
25 ASSOCIATES REALTORS; LINDA
26 DARLINGTON SEYFFERT; SEISMIC
27 SAFETY, INC.; EDMUND J. SYLVIS; KEN
28 LAMARR COMPTON; AND DOES 2
THROUGH 250,

Defendants.

Case No.: BC 669741

Assigned to the Honorable: Richard E. Rico
Dept. 17

ANSWER OF DEFENDANTS CHENEY
ADRIENNE SHAPIRO; CHENEY SHAPIRO
DESIGNS 401K; CHENEY SHAPIRO
DESIGNS; CHENEY ADRIENNE SHAPIRO,
TRUSTEE OF DEFENDANT CHENEY
SHAPIRO DESIGNS 401K; RICHARD
JUDSON WILLIAMS; AND RESOURCEFUL
DEVELOPMENTS, INC. TO THE FIRST
AMENDED COMPLAINT OF PLAINTIFF
DAVID A. GLAZER

Defendants CHENEY ADRIENNE SHAPIRO; CHENEY SHAPIRO DESIGNS 401K;
CHENEY SHAPIRO DESIGNS; CHENEY ADRIENNE SHAPIRO, TRUSTEE OF
DEFENDANT CHENEY SHAPIRO DESIGNS 401K; RICHARD JUDSON WILLIAMS; AND

ANSWER OF SHAPIRO DEFENDANTS, RICHARD JUDSON WILLIAMS AND
RESOURCEFUL DEVELOPMENTS, INC. TO FIRST AMENDED COMPLAINT

CIT/CASE: BC669741
LEA/DEF#:

RECEIPT #: CCH505376106
DATE PAID: 12/12/17 03:38 PM
PAYMENT: \$2,610.00 310
RECEIVED:
CHECK: \$2,610.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$0.00

B&E >

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1 RESOURCEFUL DEVELOPMENTS, INC (collectively the "Answering Defendants"), for
2 themselves only, file their Answer to the First Amended Complaint ("FAC") as follows:

GENERAL DENIAL

4 By virtue of and pursuant to the provisions of the Code of Civil Procedure section 431.30,
5 these Answering Defendants, generally and specifically deny each and every, all and singular,
6 conjunctively and disjunctively, the allegations contained in said FAC, and each and every part
7 thereof, and each and every cause of action thereof, and further specifically deny that Plaintiff has
8 been injured or damaged in the sum alleged, or in any other sum, or at all, by reason of any
9 carelessness, negligence, act or omission of these Answering Defendants.

FIRST AFFIRMATIVE DEFENSE

(Fails to State Facts Sufficient to Constitute a Cause of Action)

12 1. As a first and separate affirmative defense to each and every cause of action stated in
13 Plaintiff's FAC as against them, these Answering Defendants allege that said causes of action fail
14 to state facts sufficient to constitute a cause or causes of action against these Answering
15 Defendants

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

18 2. As a second and separate affirmative defense to each cause of action asserted against
19 them, these Answering Defendants allege that Plaintiff's FAC on file herein is barred by reason of
20 the applicable statutes of limitations, including but not limited to Code of Civil Procedure sections
21 337, 340, 337.1, 337.15, 338, 339, 343 and Civil Code section 2079.

THIRD AFFIRMATIVE DEFENSE

(Comparative Negligence)

24 3. As a third and separate affirmative defense to each and every cause of action stated in
25 the FAC as against them, these Answering Defendants allege that Plaintiff was negligent in and
26 about the matters alleged in the FAC and failed to exercise due care for his own protection and
27 that Plaintiff's damages, if any, are directly and proximately the result in whole or in part from
28 Plaintiff's own negligence. Accordingly, Plaintiff's damages must be reduced in proportion to

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1 Plaintiff's own fault in bringing about his damages.

FOURTH AFFIRMATIVE DEFENSE

(Third Party Negligence)

4 4. As a fourth and separate affirmative defense to each cause of action asserted against
5 them, these Answering Defendants allege that third parties were careless and negligent in and
6 about the matters alleged in the FAC, and that said carelessness and negligence on the part of said
7 third parties proximately contributed to the happening of the accident and to Plaintiff's injuries,
8 loss and/or damage, if any, allegedly sustained. Therefore, any damages awarded to Plaintiff shall
9 be diminished in proportion to the amount of fault attributed to said third parties.

FIFTH AFFIRMATIVE DEFENSE

(Laches)

12 5. As a fifth and separate affirmative defense to each cause of action asserted against
13 them, these Answering Defendants allege that the FAC on file herein is barred by reason of
14 Plaintiff's laches in that Plaintiff waited an unreasonable period of time to bring his FAC, to the
15 detriment of these Answering Defendants.

SIXTH AFFIRMATIVE DEFENSE

(Unclean Hands)

18 6. As a sixth and separate affirmative defense to each cause of action asserted against
19 them, these Answering Defendants allege that Plaintiff is barred by reason of Plaintiff's coming
20 into court with unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

(Waived Right to Relief Sought)

23 7. As a seventh and separate affirmative defense to each cause of action asserted against
24 them, these Answering Defendants allege that Plaintiff has waived his rights to the relief sought in
25 the FAC against these Answering Defendants by virtue of its acts, conduct, representations and
26 omissions.

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EIGHTH AFFIRMATIVE DEFENSE

(Mitigate Damages)

3 8. As a eighth and separate affirmative defense to each and every cause of action asserted
4 against them, these Answering Defendants allege that Plaintiff could have, by the exercise of
5 reasonable diligence, limited or prevented his damages, if any, as a result of the actions alleged in
6 the FAC and that Plaintiff has failed or refused to do so. Such failures or refusals on the part of
7 Plaintiff constitute failure to mitigate his damages.

NINTH AFFIRMATIVE DEFENSE

(Acts of Fictitiously Named Defendants)

10 9. As a ninth and separate affirmative defense to each cause of action asserted against
11 them, these Answering Defendants are informed and believe and thereon allege that they are not
12 legally responsible for the acts and/or omissions of those defendants fictitiously named herein as
13 DOES.

TENTH AFFIRMATIVE DEFENSE

(Intervening, Supervening and Superseding Causes)

16 10. As an tenth and separate affirmative defense to each cause of action asserted against
17 them, these Answering Defendants are informed and believe and thereon allege that the injuries
18 and damages of which the Plaintiff complains were proximately caused or contributed to by the
19 acts of other defendants, persons and/or entities. Said acts were in intervening, supervening and
20 superseding a cause of the injuries and damages, if any, of which the Plaintiff complains, thus
21 barring Plaintiff from any recovery against these Answering Defendants.

ELEVENTH AFFIRMATIVE DEFENSE

(Estoppel)

24 11. As a eleventh and separate affirmative defense to each cause of action asserted
25 against them, these Answering Defendants are informed and believe, and thereon allege, that
26 Plaintiff has engaged in conduct with respect to the activities and/or premium which are the
27 subject of the FAC, and by reason of said activities and conduct, is estopped from asserting any
28 claim for damages or seeking any other relief against these Answering Defendants.

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TWELFTH AFFIRMATIVE DEFENSE

(Damages Caused by Acts or Omissions Beyond Answering Defendants' Control)

3 12. As a twelfth and separate affirmative defense to each cause of action asserted against
4 them, these Answering Defendants are informed and believe, and thereon allege, that the damages
5 sustained by Plaintiff, if any, were proximately caused by the acts, omissions, negligence, fraud,
6 and/or breach of obligations by persons other than these Answering Defendants and beyond these
7 Answering Defendants' supervision and control.

THIRTEENTH AFFIRMATIVE DEFENSE

(Standard of Care Met)

10 13. As a thirteenth and separate affirmative defense to each cause of action asserted
11 against them, these Answering Defendants are informed and believe, and thereon allege, that in all
12 aspects these Answering Defendants met the applicable standard of care regarding Plaintiff.

FOURTEENTH AFFIRMATIVE DEFENSE

(Active Negligence of Plaintiff)

14. As a fourteenth and separate affirmative defense to each cause of action asserted
against them, these Answering Defendants are informed and believe, and thereon allege that the
damages sustained or to be sustained by Plaintiff, if any, were proximately caused or contributed
to by the active negligence of Plaintiff in that he personally participated in a negligent act or
omission that brought about the injuries or damages of which he is now complaining.
Consequently, neither the law nor any agreement entitles Plaintiff to an indemnity.

FIFTEENTH AFFIRMATIVE DEFENSE

(Non-Economic Damages)

23 15. As a fifteenth and separate affirmative defense to each cause of action asserted
24 against them, these Answering Defendants' liability for non-economic damages, if any, is limited
25 to that percentage of those damages which are in direct proportion of these Answering Defendants'
26 percentage of fault in accordance with Civil Code section 431.2(a).

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SIXTEENTH AFFIRMATIVE DEFENSE

(Lack of Privity)

3 16. As a sixteenth and separate affirmative defense to each cause of action asserted
4 against them, these Answering Defendants were not parties to the original agreement which forms
5 the basis of Plaintiff's FAC and, therefore, Plaintiff lacks the required privity to raise the claims
6 alleged.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Lack of Justifiable Reliance)

9 17. As a seventeenth and separate affirmative defense to each cause of action asserted
10 against them, these Answering Defendants are informed and believe, and thereon allege, that
11 Plaintiff lacked any justifiable reliance concerning the supposed misstatements attributed to these
12 Answering Defendants.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Set-Off to Recovery)

15 18. As a eighteenth and separate affirmative defense to each cause of action asserted
16 against them, these Answering Defendants are informed and believe, and thereon allege, that they
17 are entitled to a set-off as a result of any recovery made by Plaintiff from any other party, in
18 connection with the damages claimed in this lawsuit.

NINETEENTH AFFIRMATIVE DEFENSE

(Damages Did Not Arise From Defendants' Alleged Breach)

21 19. As a nineteenth separate affirmative defense to each cause of action asserted against
22 them, these Answering Defendants are informed and believe, and thereon allege, that as to each
23 alleged cause of action set forth in the FAC, the conditions set forth therein and the damages
24 related thereto did not arise out of any action by these Answering Defendants nor any act or
25 omission related thereto and thus recovery is precluded.

TWENTIETH AFFIRMATIVE DEFENSE

(Reasonable Reliance on Information Provided by Owner)

28 20. As a twentieth and separate affirmative defense to each cause of action asserted

1 against them, these Answering Defendants are informed and believe, and thereon allege, that they
2 and their representative agents justifiably relied on information furnished by the owner or by
3 persons directly employed by the owner of the subject property set forth in the FAC

4 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

5 *(Reservation of Right to Assert Additional Affirmative Defenses)*

6 21. As a twenty-first and separate affirmative defense to each cause of action asserted
7 against them, these Answering Defendants allege that they currently have insufficient information
8 upon which to form a belief as to whether he may have additional, as yet unstated, affirmative
9 defenses available. These Answering Defendants therefore reserve the right to assert additional
10 affirmative defenses in the event discovery indicates that they would be appropriate.

11 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

12 *(Breach of Contract)*

13 22. As a twenty-second and separate affirmative defense to each cause of action asserted
14 against them, these Answering Defendants allege that any obligations owed by him under any
15 alleged contract were excused by Plaintiffs breach of the alleged contract.

16 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

17 *(Authorization)*

18 23. As a twenty-third and separate affirmative defense to each cause of action asserted
19 against them, these Answering Defendants allege that by virtue of the acts of the Plaintiff, and/or
20 the persons and/or entities acting on his behalf, Plaintiff is barred from prosecuting the purported
21 causes of action set forth in the Complaint by the doctrine of authorization.

22 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

23 *(Lack of Deception)*

24 24. As a twenty-fourth and separate affirmative defense to each cause of action asserted
25 against them, these Answering Defendants allege that the actions taken by these Answering
26 Defendants were not deceptive.

27 **WHEREFORE**, these Answering Defendants prays as follows:

28 1. That Plaintiff take nothing by way of his FAC on file herein;

1 2. That judgment be entered in the within action in favor of these Answering
2 Defendants upon the issues of the FAC;
3 3. For an award to these Answering Defendants of attorney's fees, if allowed by law,
4 and costs of suit herein incurred; and
5 4. For such other and further relief as the Court may deem just and proper.

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7 DATED: December 12, 2017

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RICHARDSON • OBER PC

By: 
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KEN WULFF

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PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 234 East Colorado Blvd., 8th Floor, Pasadena, California 91101.

On December 12, 2017, I served the foregoing document described as: **ANSWER OF DEFENDANTS CHENEY ADRIENNE SHAPIRO; CHENEY SHAPIRO DESIGNS 401K; CHENEY SHAPIRO DESIGNS; CHENEY ADRIENNE SHAPIRO, TRUSTEE OF DEFENDANT CHENEY SHAPIRO DESIGNS 401K; RICHARD JUDSON WILLIAMS; AND RESOURCEFUL DEVELOPMENTS, INC. TO THE FIRST AMENDED COMPLAINT OF PLAINTIFF DAVID A. GLAZER** on all interested parties in said action by placing a true copy thereof in a sealed envelope addressed as stated on the attached service list:

- BY MAIL:** I am "readily familiar" with Richardson | Ober PC's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Pasadena, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.
- BY FACSIMILE:** I caused such documents to be transmitted to the telephone number of the addressee listed above, by use of facsimile machine telephone number (626) 449-5572. The facsimile machine used complied with *California Rules of Court*, Rule 2.306(a)(1) and no error was reported by the machine.
- BY PERSONAL SERVICE:** I caused a copy of such documents to be delivered by hand to the offices of the addressee between the hours of 9:00 a.m. and 5:00 p.m.
- BY OVERNIGHT EXPRESS:** By placing a true copy in a separate envelope for each addressee named on the attached service list, with the name and address of the person served shown on the envelope as indicated on the service list, and by sealing the envelope and placing it for collection and delivery by Overnight Express with delivery fees paid or provided for in accordance with ordinary business practices.
- STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 12, 2017, at Pasadena, California.

Debra Condraugh

SERVICE LIST

RE: Glazer v. Cheney Adrienne Shapiro, et. al.

Case No.: BC 669741

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